

# Notice of Allowability

Application No.

10/068,398

Examiner

Devesh Khare

Applicant(s)

BALDRIDGE ET AL.

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/18/2004.
2. ☒ The allowed claim(s) is/are 1-25 and 61-63.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

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Applicant's amendments and remarks filed on 10/18/04 are acknowledged. Claims 1, 61 and 62 have been amended. Claims 26-60 have been cancelled. The instant method for treating an infectious disease, autoimmune disease or allergic condition in a subject with the compounds of general formula (I) is allowable; the examiner hereby vacates the species restriction proposed in the office action dated 11/05/2002. Claims 20-24 drawn to a non-elected species have been rejoined with the instant claims.

The IDS submitted on 07/21/2003 has been considered.

The rejection under 35 U.S.C. 112, first paragraph have been overcome through applicants' amendment to the claims.

The examiner withdraws the 35 U.S.C. 103(a) rejections as being unpatentable over Johnson et al. (Johnson) that Johnson does not disclose or suggest the cyclic AGP (cyclic aminoalkyl glucosaminide phosphate) compounds of claims 1-19, 25-44 and 61-63.

The terminal disclaimer filed over prior U.S. Patent No. 6,525,028 has been approved.

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

In claim 61, the phrase "AGP" has been replaced by the phrase "aminoalkyl glucosaminide phosphate (AGP)".

Claims 1-25 and 61-63 are currently pending in this application.

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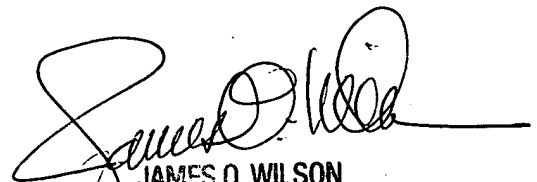
Claims 1-25 and 61-63 are allowed.

2. The following is an examiner's statement of reasons for allowance: a method of treating a mammal suffering from or susceptible to a pathogenic infection, cancer or an autoimmune disorder comprising administering to the mammal a therapeutically effective amount of a compound (cyclic AGP) of formula I of claim 1 wherein  $R^1$ ,  $R^2$  and  $R^3$  are each members independently selected from the group consisting of  $(C_9-C_{14})$ acyl, is disclosed in the issued U.S. Patent 6,525,028, is assigned to the assignee of this invention and Claims 1-25 and 61-63 of the present invention recite a method for treating an infectious disease, autoimmune disease or allergic condition in a subject comprising contacting the subject with an effective amount of one or more compounds(cyclic AGP) of formula I of claim 1 wherein  $R^1$ ,  $R^2$  and  $R^3$  are each members independently selected from the group consisting of  $(C_2-C_{20})$ acyl, is not taught or fairly suggested by the prior art of the record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1235.

Devesh Khare, Ph.D., J.D.  
Art Unit 1623  
January 4, 2004



JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600